

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Miettinen et al.	CONF. NO.	3541
SERIAL NO.:	09/879,438	ART UNIT:	2173
FILING DATE:	06/12/2001	EXAMINER:	Pillai, Namitha
TITLE:	SELECTION OF AN ALTERNATIVE		
ATTORNEY DOCKET NO.:	442-010339-US (PAR)		

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

I. INTRODUCTION

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. Reconsideration of the rejection of the claims is respectfully solicited in light of the following remarks.

II. REMARKS

1. Claims 17-32, 34-38, 40-47, and 49-56 are patentable over the combination of Takahara et al. (US 5,381,158, "Takahara") and Kojima et al. (US 6,236,398, "Kojima") under 35 USC 103(a).

The combination of Takahara and Kojima fails to disclose or suggest:

allowing the user to do a first movement of a member of the body to a position corresponding to an alternative the user desires, and recognizing a second movement of a member of the body done by the user in the position corresponding to the alternative the user desires,

wherein said positions are sectors on an arcuate area surrounding the user and separated by separating areas arranged to reduce selection errors, and

wherein said first movement comprises moving the member of the body to a certain sector on said arcuate area between two of the separating areas,

as substantially recited by claims 17, 24, 45, and 52.

The Final Action mailed 4 March 2008 properly points out that Takahara fails to disclose or suggest that the alternatives surround the user, and that the positions are sectors on an arcuate area, and the first movement comprises moving the member of the body to a certain sector on the arcuate area.

Applicants note that the claims recite that the positions are sectors on an arcuate area surrounding the user and separated by separating areas arranged to reduce selection errors.

Applicants respectfully submit that neither Takahara nor Kojima discloses these features.

An operator using Kojima's embodiments does not move a body member to a sector on an arcuate area surrounding the user. In Kojima, the operator uses the media selecting device 1 in Figure 1 to make selections. The operator selects an icon by rotating a knob and pressing a button on media selecting device 1 of Figure 1. Media selecting device 1 does not have an arcuate area surrounding the user and operating the device does not involve moving a body member to a sector on an arcuate area surrounding the user. Thus, making a selection by manipulating the knob and buttons on the device 1 is clearly different from moving a body member to a sector on an arcuate area surrounding the user.

Referring to Kojima's Figure 2 for exemplary purposes only, the user does not move a body member to any portion of table 8 to make a selection. As stated by the Examiner on page 10 of the Final Office Action, in Kojima, the user moves a rotation knob to select an icon on the table 8. Thus, the user does not move a body member to a sector on table 8 but instead operates the media selector. Operation of the media selector in no way includes moving a body member to a sector on an arcuate area surrounding the user.

At least for these reasons, independent claims 17, 24, 45, and 52 and dependent claims 18-23, 25-32, 34-38, 40-44, 46, 47, 49-51, and 53-56 are patentable over the combination of Takahara and Kojima.

2. Applicants respectfully submit that claim 48 is patentable over the combination of Takahara, Kojima and Kumar et al. (US 6,624,833, "Kumar") under 35 USC 103(a).

Claim 48 depends from claim 45.

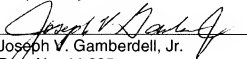
Kumar fails to disclose or suggest the features missing from the combination of Takahara and Kojima argued above. Kumar has no disclosure related to a means for recognizing a movement of a member of a body of the user to one of the positions on said arcuate area between two of the separating areas, where the positions are sectors on an arcuate area surrounding the user and separated by separating areas arranged to reduce selection errors.

Similar to Takahara and Kojima, Kumar has no disclosure related to moving a body member to a sector on an arcuate area surrounding the user. At least for this reason, the combination of Takahara, Kojima, and Kumar fails to render claim 48 unpatentable.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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